

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**RYDER SYSTEM INC. BENEFIT PLAN,**

Plaintiff,

Case No.:

v

Hon.

**FREMONT INSURANCE COMPANY,**

Defendant

**COMPLAINT**

Plaintiff, Ryder System, Inc. Benefit Plan ("Plan"), states for its Complaint seeking declaratory and equitable relief states as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. This action is filed under the Declaratory Judgment Act, 28 U.S.C. §2201.

2. The Plan, is a self-funded employee welfare benefit plan organized under and governed by the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §1001, *et seq.*

3. Defendant, Fremont Insurance Company ("Fremont") is an insurance corporation doing business in the State of Michigan, including the issuance of policies of insurance in conformity with Michigan's No-Fault Insurance Act, M.C.L. § 500.3101, *et seq.*

4. This Court has jurisdiction over this action pursuant to 29 U.S.C. §1132(e) as this Complaint concerns an action to enforce the terms of the Plan as authorized by the ERISA and federal common law.

5. Venue in this District is proper pursuant to 29 U.S.C. §1132(e) and 28 U.S.C. §1391(a).

### **GENERAL ALLEGATIONS**

6. On or about June 6, 2017, Joann Drake was injured in an automobile accident.

7. On the aforementioned date, Ms. Drake was enrolled in and eligible for medical benefits from the Plan.

8. To date, the Plan has provided medical benefits on behalf of Ms. Drake in the amount of \$91,508.17 for injuries sustained in the accident.

9. On June 6, 2017, and all subsequent dates for which benefits on behalf of Ms. Drake were provided, the Plan's terms expressly disavowed coverage, rendering the medical benefits available under the Plan secondary to coverage for expenses provided under any policy of no-fault automobile insurance.

10. On June 6, 2017, Plaintiff was covered under a no-fault policy of insurance issued by Fremont, under which she was entitled to personal protection insurance ("PIP") benefits as a result of the injuries she sustained in the accident.

**COUNT I**  
**DECLARATORY JUDGMENT**

11. The Plan reaffirms and realleges the allegations set forth in paragraphs 1-10 above as if fully set forth herein.

12. The Plan's terms clearly and unambiguously relegate the plan to the position of being an excess or secondary health care coverage provider when there is no-fault auto medical coverage providing PIP benefits for the mutually covered person.

13. The Plan's terms expressly disavow and subordinate its coverage when there is available coverage under a no-fault policy of automobile insurance.

14. The Plan is entitled to reimbursement for health care benefits paid on behalf of Ms. Drake by virtue of the fact that Fremont's no-fault policy of insurance is deemed primary for the payment of medical benefits on behalf of Ms. Drake.

**WHEREFORE**, Plaintiff Ryder System, Inc. Benefit Plan requests that this Court grant declaratory relief in its favor, and against Defendant Fremont Insurance Company, and enter an Order declaring the following:

- (A) That the Plan is entitled to recoup from Defendant Fremont all amounts which the Plan has paid for medical benefits on behalf of Ms. Drake, for injuries as a result of the June 6, 2017 accident described herein;

- (B) That Fremont be deemed primary for the payment of all future medical expenses incurred by Ms. Drake for injuries sustained in the June 6, 2017 accident described herein; and
- (C) That the Plan is entitled to be awarded costs and actual attorney fees from Defendant Fremont for the necessity of prosecuting the instant action pursuant to ERISA, 29 U.S.C. § 1132(g).

Plaintiff further requests that the Court grant such further relief as it deems necessary and just.

**FRASER TREBILCOCK**

Attorneys for Ryder System, Inc. Benefit Plan

Dated: June 28, 2019

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